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HOUSE OF REPRESENTATIVES
REPORT
No. 97-737

AMENDMENT TO INTERNATIONAL SAFE CONTAINER ACT

AUGUST 12, 1982.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. JONES of North Carolina, from the Committee on Merchant Marine and Fisheries, submitted the following

REPORT

[To accompany H.R. 6732]

[Including cost estimate of the Congressional Budget Office]

The Committee on Merchant Marine and Fisheries, to whom was referred the bill (H.R. 6732) to amend the International Safe Container Act, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 1, line 9, insert "approved" before "existing".

BACKGROUND AND DISCUSSION

The International Convention for Safe Containers (CSC) was signed at Geneva, Switzerland, in 1972. The Convention Protocol provides for uniform structural requirements to insure safety in handling, stacking, and transporting cargo containers in the course of normal operations. The CSC requires that each Party to the Convention designate an appropriate authority to be responsible for the implementation of procedures for approval, examination, and safety plating of containers.

Approval is granted to any container built to a design type that has been tested and found to comply with the technical conditions set out in the Convention, or that was constructed to standards equivalent to these conditions. Evidence that approval has been granted is indicated by attaching a Safety Approval Plate to a container that has first been examined and found to meet the standards set out in the CSC.

The Convention requires containers constructed after the Convention entered into force (September 6, 1977) to meet the specified

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structural requirements immediately. Existing containers (those containers constructed prior to September 6, 1977) were given five additional years to be approved, examined, and safety plated.

Despite the intent of the Convention that all existing containers be safety plated within five years, that goal has not been met. On August 11, 1980, the International Maritime Organization's (formerly the Intergovernmental Maritime Consultative Organization) Subcommittee on Containers and Cargoes made a survey concerning existing containers. Eight countries responded, including the United States and most of the other major container-owning countries. The results showed that out of 890,000 existing containers 677,000 had been approved and 105,000 had been examined and safety plated.

Two circumstances have hindered the effort to have all existing containers examined and plated by September 6, 1982. First, the number of containers in use increased two and one-half fold between the time the Convention was signed in 1972, and 1977 when it came into force. This increase exceeded the estimates of experts at the Convention.

Second, the major container-owning nations did not ratify the Convention until relatively recently. In all, 18 countries have ratified the Convention since the beginning of 1978 as opposed to eleven countries that ratified it before that time. In most countries, administrative procedures were not established until after ratification. The experience in the United States is a good example.

The Senate gave advice and consent to the CSC on September 15, 1976. On December 13, 1977, implementing legislation was enacted in the form of the International Safe Container Act (91 Stat. 1475; 46 U.S.C. 1501–1508). The United States deposited its instrument of ratification on January 3, 1978, and the Convention came into force in the United States a year later. The Coast Guard, designated as the agency responsible for implementing the Act, published regulations on April 20, 1978. However, the final rule—developed with input from the container industry, labor, and other interested parties—did not become effective until July 2, 1980.

Because of the increase in containers and the late ratification by so many nations, signatories to the Convention decided that the deadline for examining and plating the containers had to be extended. The International Maritime Organization met and amended Annex I of the International Convention. The amendment extends the date by which containers have to be examined and plated from September 6, 1982 to January 1, 1985. The deadline for initial approval of existing containers remains at September 6, 1982.

In order to conform the International Safe Container Act with the amended Convention, H.R. 6732 was introduced by the Honorable Walter B. Jones (by request) on July 12, 1982.

Committee Action

H.R. 6732 was referred to the Merchant Marine and Fisheries Committee and subsequently to the Subcommittee on Merchant Marine for legislative action.

A hearing on the bill was held on July 22, 1982 before the Subcommittee on Merchant Marine. Testimony was received from the

Coast Guard; the International Longshoremen's Association (ILA); the Council of American-Flag Ship Operators; and a panel of container lessors, including the Institute of International Container Lessors, Transamerica ICS, Inc., and CTI-Container Transport International, Inc. The only witness who testified in opposition to the bill was the representative of the International Longshoremen's Association. The ILA opposed the bill because it is concerned about possible danger to workmen if the deadline for examining and plating containers were to be extended. The Coast Guard testified that the extension would present no danger to workmen or potential for safety hazards, since the Coast Guard would still have the authority to detain any unsafe container—plated or not. A favorable report on the legislation was received from the Department of Labor. Other statements for inclusion in the hearing record were received from the International Longshoremen's and Warehousemen's Union, the American Bureau of Shipping, Interpool Limited, and CIGNA Corporation.

The Subcommittee met on Wednesday, August 4, 1982 to markup the bill and, by voice vote, reported it out of Subcommittee.

The Full Committee met on August 12, 1982 and, by voice vote, ordered the bill reported to the House.

Section-by-Section Analysis

SECTION 1

This section amends the International Safe Container Act. The amendment extends the period of time available to the owners of existing containers to have them examined and plated. The deadline is changed from September 6, 1982 to January 1, 1985.

SECTION 2

This section establishes the effective date of the Act as the later of the date of its enactment or September 6, 1982.

Cost of the Legislation

Pursuant to clause 7 of rule XIII of the Rules of the House of Representatives, the Committee estimates that there will be no costs incurred by the Government as a result of enactment of the legislation.

Inflation Impact Statement

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee on Merchant Marine and Fisheries has assessed the potential for inflationary impact and has concluded that enactment of H.R. 6732 will not have an inflationary impact on prices and costs in the operation of the national economy.

Compliance With Clause 2(l)(3) of Rule XI

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives:

(A) No oversight hearings were held on the subject of this legislation.

(B) The requirements of section 308(a) of the Congressional Budget Act of 1974 are not applicable to this legislation since it does not provide new budget authority or new or increased tax expenditures.

(C) The Committee has received no report from the Committee on Government Operations of oversight findings and recommendations arrived at, pursuant to clause 4(c)(2) of rule X of the Rules of the House of Representatives.

(D) The Director of the Congressional Budget Office has furnished the Committee with an estimate and comparison of costs for H.R. 6732 pursuant to section 403 of the Congressional Budget Act of 1974. The submission is as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., August 12, 1982.

Hon. WALTER B. JONES,
Chairman, Committee on Merchant Marine and Fisheries,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6732, a bill to amend the International Safe Container Act, as ordered reported by the House Committee on Merchant Marine and Fisheries, August 12, 1982.

This bill extends the deadline for inspection and safety plating of containers as called for in a recent amendment to the International Convention for Safe Containers. Based on this review, it is expected that no additional cost to the government would be incurred as a result of enactment of this bill.

Sincerely,

ALICE M. RIVLIN, *Director.*

COMMUNICATION FROM COMMITTEE ON ENERGY AND COMMERCE

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C., August 4, 1982.

Hon. THOMAS P. O'NEILL, JR.,
The Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: I am writing to you regarding H.R. 6732, a bill to amend the International Safe Container Act, introduced by Mr. Jones of North Carolina on July 12, 1982, and referred to the Committee on Merchant Marine and Fisheries.

The bill amends the International Safe Container Act, Public Law 95-208 (46 U.S.C. 1501 *et seq.*) to expand the period of time available to the owners of existing cargo containers to comply with the International Convention for Safe Containers, 1972. That Act set uniform structural requirements to ensure safety in the handling, stacking, and transporting of cargo containers transported interchangeably by sea and land carriers.

As you know, the Committee on Energy and Commerce has jurisdiction over railroads and interstate and foreign commerce generally, and historically has had jurisdiction over this issue. The International Safe Container Act, which H.R. 6732 amends, was jointly referred during the 95th Congress to the Committee on Merchant Marine and Fisheries and the Committee on Interstate and Foreign Commerce (now, the Committee on Energy and Commerce). Also, in May 1982, your office sent a letter of transmittal from the Secretary of Transportation which contained the proposed legislation to this Committee and the Committee on Merchant Marine and Fisheries.

On this basis, I believe that this legislation more properly should have been jointly referred to the Committee on Energy and Commerce and the Committee on Merchant Marine and Fisheries. I appreciate, however, the difficulties involved in correcting an inappropriate referral and the need for timely action by the Congress on this particular legislation prior to the current date for compliance of September 6, 1982. Therefore, rather than request a sequential referral of H.R. 6732 to the Committee on Energy and Commerce once the Committee on Merchant Marine and Fisheries has reported the bill, I have requested that a letter from me clarifying the jurisdictional question be included in the report on the bill filed with the House by the Committee on Merchant Marine and Fisheries. However, I feel it is my duty as Chairman to respectfully request that any future legislation relating to this subject be jointly referred to both Committees.

Thank you for your consideration in this matter.

Sincerely,

JOHN D. DINGELL, *Chairman.*

DEPARTMENTAL REPORTS

H.R. 6732 was the subject of Executive Communication No. 3987 of May 13, 1982 from the Secretary of Transportation. In addition, the Coast Guard (Department of Transportation) testified at the hearing in favor of the legislation. The Department of Labor submitted a favorable statement for the record. The Executive Communication follows herewith:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., May 13, 1982.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: There is transmitted herewith a draft of a proposed bill "To amend the International Safe Container Act."

The proposed legislation would amend the International Safe Container Act, Public Law 95-208, December 13, 1977, (46 U.S.C. 1501 et seq.), to comply with a recent amendment to the International Convention for Safe Containers, 1972. That amendment, which became effective on December 1, 1981, enlarges the period of time available to owners of containers built before September 6, 1977, to have them examined and safety plated in accordance with the Convention. This expansion was deemed necessary because of the substantial increase in the number of containers in use which occurred after the Convention protocol was signed in 1972. Between then and 1977, their num-

ber increased two and one-half fold, thereby making compliance within the original time frame impossible. This legislation incorporates the amendment into Public Law 95–208 by simply changing the dates currently included within its provisions and deleting language which has become unnecessary.

Enactment of this proposal will extend until January 1, 1985, the period in which container owners have to complete the examination and safety plating requirements of the Convention in compliance with the Act. After that date, the Secretary of Transportation will have discretionary authority to examine or require to have examined any existing containers. It should be noted, however, that the Convention amendment and, accordingly, this proposal do not change the original requirement that all existing containers be initially approved by September 6, 1982.

Since this proposal will generate no new costs to the Government and represents the implementation of a position already accepted by the United States, it is recommended that the proposed legislation be enacted by the Congress.

The Office of Management and Budget has advised that there is no objection from the standpoint of the Administration's program to the submission of the proposed legislation to the Congress.

Sincerely,

DREW.

Enclosures.

A BILL To amend the International Safe Container Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the "International Safe Container Act", Public Law 95–208, December 13, 1977, 91 Stat. 1475 (46 U.S.C. 1501 et seq.) is amended as follows—

(a) Subsection 3 (b) is amended to read:

"During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before January 1, 1985, an owner of an existing container may have a safety approval plate affixed thereto, if such container is found to meet the standards of the Convention."

(b) Subsection 5(a)(2) is amended by deleting the phrase "September 6, 1982" and inserting in place thereof "January 1, 1985".

SEC. 2. The effective date of this Act is the date of enactment or September 6, 1982, whichever date is later.

COMPARATIVE TYPE SHOWING CHANGES MADE TO EXISTING LAW BY THE PROPOSED BILL

(Matter to be omitted is enclosed in brackets; matter to be added is italic.)

SEC. 3. DUTIES OF AN OWNER.

* * * * *

(b) During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before [September 6, 1982] *January 1, 1985*, an owner of an existing container may have [such container approved according to the procedure established by the Secretary, and have] a safety approval plate affixed [to it] *thereto*, if such container is found to meet the standards of the Convention.

* * * * *

SEC. 5. ENFORCEMENT.

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(a)2. Beginning on [September 6, 1982] *January 1, 1985*, the Secretary may examine or require to be examined any existing container in international transport.

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STATEMENT OF PURPOSE AND NEED

This proposal will enlarge the period of time available to the owners of existing containers to have them examined and plated in accordance with the International Convention for Safe Containers, 1972. After January 1, 1985, the Secretary of Transportation will be authorized to examine or require examination of the subject containers to ensure compliance with the Convention and the implementing domestic legislation, the International Safe Container Act (Public Law 95–208, December 13, 1977, 91 Stat. 1475 (46 U.S.C. 1501 et seq.))

The original Convention protocol was signed in Geneva in 1972. Its provisions set uniform structural requirements to ensure safety in handling, stacking, and transporting of cargo containers in the course of normal operations. The Convention came into force on September 6, 1977. The U.S. Senate had given its advice and consent to the Convention on September 15, 1976. After the subsequent enactment of the implementing legislation, the United States deposited its instrument of ratification on January 3, 1978.

Since the drafting of the Convention, the number of existing containers (i.e., those containers on which construction was commenced prior to September 6, 1977, the date the Convention entered into force) within its purview has increased substantially. For example, between 1972 and 1977 the increase was a factor of approximately 2.5. This fact when viewed in light of the relatively recent ratification of the Con-

vention by other large container owning nations, i.e., the United Kingdom and Japan, has forced many container owners to announce that they will be unable to examine and plate all existing containers within the time frame originally mandated by the Convention. Article III, section 3, required that every existing container be approved, examined and plated within five years of the date on which the Convention entered into force, i.e., September 6, 1982.

In response to this situation the Maritime Safety Committee of the Inter-Governmental Maritime Consultative Organization (IMCO) on April 2, 1981, adopted an amendment to the Convention which would still require initial approval of all containers by September 6, 1982 (as also required by section 3(a) of the Act), but extend the time limits set forth in Regulations 2, 9, and 10 of Annex I of the Convention for examining and plating existing containers until January 1, 1985. This Convention amendment became effective on December 1, 1981.

This legislative proposal incorporates the amendment into our current implementing legislation by simply changing the date "September 6, 1982" in two sections of the Act, sections 3(b) and 5(a)(2), to read "January 1, 1985". That language in section 3(b) which permitted an owner of an existing container to obtain approval at his discretion has been deleted since section 3(a) of Public Law 95–208, as of September 6, 1982, makes the approval requirement mandatory.

SECTIONAL ANALYSIS OF THE BILL

Section 1

Sec. 3(b) of Public Law 95–208 [46 U.S.C. 1502(b)]: Subsection (b) has been amended to enlarge the time period in which the owner of an existing container may have it examined and safety plated under the procedures established by the Secretary of Transportation. To conform with a recent amendment to the International Convention for Safe Containers, 1972, which became effective on December 1, 1981, the current "September 6, 1982" date by which these actions must be accomplished is replaced by the date of "January 1, 1985". That language of subsection (b) which permitted the owner of an existing container to obtain approval at his discretion has been deleted since subsection 3(a) in accordance with the Convention, makes the approval requirement mandatory as of September 6, 1982.

Sec. 5(a)(2) of Public Law 95–208 [46 U.S.C. 1504(a)(2)]: Subsection (a)(2) is likewise amended by replacing the "September 6, 1982" date with "January 1, 1985". After the later date, the Secretary of Transportation will have discretionary authority to examine any existing container involved in international transport.

Section 2

The effective date of this proposal is either the date of its enactment or September 6, 1982—the date on which the

initial approval requirement becomes mandatory—whichever is later.

COST AND BUDGET DATA

Enactment of this proposal will generate no new costs to the Government. Its implementation will require no additional personnel or resources.

CHANGES IN EXISTING LAW

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to the omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

INTERNATIONAL SAFE CONTAINER ACT

91 Stat. 1475 (46 U.S.C. 1501–1508)

SEC. 3. DUTIES OF AN OWNER.

(a) Beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, for new containers, and beginning on September 6, 1982, for existing containers, the owner of each such container—

(1) who is domiciled and has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the Secretary; and

(2) who is either domiciled or has his principal office in the United States, shall have each such container initially approved in accordance with the procedure established by the Secretary or by the administration of another contracting party to the Convention; and shall, thereafter, have each such container periodically examined, as provided in the Convention, in accordance with the procedure established by the administration of either the country where he is domiciled or has his principal office (so long as such country is a party to the Convention).

Any owner of either a new or existing container who is neither domiciled nor maintains a principal office in the United States, or in any other country which is a party to the Convention, may submit their containers for approval and periodic examination according to the procedure established by the Secretary.

[(b) During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before September 6, 1982, an owner of an existing container may have such container approved according to the procedure established by the Secretary, and have a safety approval plate affixed to it, if such container is found to meet the standards of the Convention.]

(b) During the period beginning on the date the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, and before January 1, 1985, an owner of an approved existing container may have a safety approval plate affixed thereto, if such container is found to meet the standards of the Convention.

SEC. 5. ENFORCEMENT.

(a)(1) On and after the date of the instrument of ratification is deposited by the United States in accordance with the provisions of article VII of the Convention, to ensure compliance with this Act, and with the Convention, the Secretary may—

(A) examine, or require to be examined, new containers, and existing containers which are subject to this Act, in international transport, and test, inspect, and approve designs for new containers and new containers being manufactured;

(B) issue a detention order removing or excluding a container from service until the owner of the container establishes to the Secretary's satisfaction that the container meets the standards of the Convention, if the container is subject to this Act and does not have a valid safety approval plate attached to it, or if there is significant evidence that such a container bearing a safety approval plate is in a condition which creates an obvious risk to safety; and

(C) take whatever other appropriate action he deems necessary, including issuance of any necessary orders, to remove the container involved from service, or restrict its use, in those instances where he finds that a container is not in compliance with the provisions of this Act or the Convention but does not present an obvious risk to safety.

The Secretary may permit the movement to another location of a container which he finds to be unsafe or which does not have a valid safety approval plate affixed to it, under whatever restriction he considers necessary and consistent with the intent of the Convention, for repair or other appropriate disposition.

(2) Beginning on [September 6, 1982] *January 1, 1985*, the Secretary may examine or require to be examined any existing container in international transport.

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